OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-14-010C **EFFECTIVE DATE:** October 1, 2016

SUBJECT: Grain Handling Industry Local Emphasis Program (LEP)

REGIONAL IDENTIFIER: Region VII

ABSTRACT

Purpose: Continues a Local Emphasis Program (LEP) policies and procedures for the purpose of conducting inspections of grain handling facilities within the St. Louis Area Office jurisdiction. The targeted employers are in the grain handling industry [Standard Industry Codes (SIC) 2041, 2044, 2048, and 5153, and North American Industry Classification System (NAICS) 311211, 311212, and 311119].

References: OSHA Instructions: CPL 02-00-160, CPL 04-00-001, CPL 02-00-025, CPL 02-00-051, CPL 02-01-004, NIOSH Publications 83-126 and 95-109, and U.S. Department of Agriculture, Task Force Report from the Office of the Special Coordinator for Grain Elevator Safety and Security.

Expiration: September 30, 2017

Action Offices: St. Louis Area Office

Originating Office: Kansas City Regional Office

Contact: Enforcement Programs (816) 283-8745

By and Under the Authority of:

[signature]

for Kimberly A. Stille
Regional Administrator

EXHIBIT C

Table of Contents

I. Purpose 3

II. Scope 3

III. References...3

IV. Action...4

V. Expiration..4

VI. Background..4

VII. Procedures..5

VIII. Recording in OIS..7

IX. Evaluation...8

I. Purpose. This Notice continues a Local Emphasis Program (LEP) designed to reduce injury, illness, and death rates in the grain handling industry by increasing employers' knowledge in safety and health and promoting safety and health programs through a combination of outreach and enforcement activities.

II. Scope. This Notice applies to the St. Louis Area Office jurisdiction. This LEP establishes OSHA's procedure for programmed partial safety and health inspections of establishments in SIC 2041/NAICS 311211 (flour mill products), SIC 2044/NAICS 311212 (rice milling), SIC 2048/NAICS 311119 (prepared feed for animals and fowls), and SIC 5153/NAICS 424510 (grain and field beans), for any grain handling or storage related activities performed at the establishment, pursuant to the provisions contained in the Field Operations Manual (FOM). The scope of the inspection will include only those areas where grain handling or storage occurs, "plain view" items, and safety and health programs.

III. References.

A. OSHA Instruction CPL 04-00-001, November 10, 1999, Procedures for Approval of Local Emphasis Program (LEPs) and Experimental Programs.

B. OSHA Instruction CPL 02-00-160, August 2, 2016, Field Operations Manual (FOM).

C. OSHA Instruction CPL 02-00-025, January 4, 1995, Scheduling System for Programmed Inspections.

D. OSHA Instruction CPL 02-01-004, November 8, 1996, Inspection of Grain Handling Facilities, 29 CFR 1910.272.

E. OSHA Instruction CPL 02-00-051 May 28, 1998, Exemptions and Limitations under the Current Appropriations Act and Change dated January 29, 2016, (Appendix A) or current version.

F. National Institute of Occupational Safety and Health (NIOSH) Publication No. 83-126, Occupational Safety in Grain Elevators and Feed Mills (1983).

G. NIOSH Publication 95-109, Safe Grain and Silage Handling (1995).

H. U.S. Department of Agriculture, Office of the Special Coordinator for Grain Elevator Safety and Security, Task Force Report, "Prevention of Dust Explosions in Grain Elevators – An Achievable Goal", (1980).

I. Memorandum from Thomas Galassi to Regional Administrators, Procedures for Local and Regional Emphasis Programs, December 3, 2014.

J. Memorandum from Francis Yebesi to Regional Administrators, Establishment-Targeting Lists for Emphasis Programs, November 12, 2014.

IV. Action. The Regional Administrator, through the Assistant Regional Administrator for Enforcement Programs, and the St. Louis Area Director shall ensure that the procedures outlined in this Notice are followed and adhered to in the scheduling of programmed inspections of grain handling facilities.

V. Expiration. This LEP will expire September 30, 2017, and may be renewed based on an evaluation of the program at that time.

VI. Background.

The hazards associated with grain handling facilities are well recognized. Employees are exposed to significant hazards such as falls, electrocution, engulfment, auger entanglement, struck by, and combustible dust explosions. Nationally, OSHA has determined a renewed focus on grain industries is necessary. Due to the hazardous nature of the grain industry and the fatalities that occurred during 2009, the Assistant Secretary for OSHA mailed letters to grain handling facilities in the United States warning those employers not to allow workers to enter grain storage facilities without proper equipment, precautions, and training. A search of OSHA's Integrated Management Information System (IMIS) database from January 1, 2000 to December 31, 2012 shows that 122 fatality inspections were conducted nationwide at grain handling establishments, many involving multiple victims. A search of the OSHA Information System (OIS) database from January 1, 2012 to July 31, 2016 shows that 30 fatality/catastrophe inspections were conducted nationwide at grain handling establishments.

The U.S. Department of Labor Bureau of Labor Statistics (BLS) in 2014 shows Missouri employers within the NAICS Code 311XXX had an average total OSHA recordable rate of 4.1 per 100 employees, compared to the national average of 3.2 for private industry. This LEP will assist employers in protecting employees potentially exposed to the hazards of grain handling facilities. Due to the serious nature of hazards inherent to grain handling facilities, the St. Louis Area Office will conduct this emphasis program in the State of Missouri. Thereby, in accordance with the Department of Labor Strategic Plan 2014-2018, this LEP addresses OSHA Performance Goal 2.1: "Improve workplace safety and health through the enforcement of occupational safety and health regulations and standards."

A Local Emphasis Program is deemed appropriate for the following reasons:

1. Numerous serious hazards exist in facilities where grain is processed and transferred.
2. Inspections of grain handling facilities in the State of Missouri have identified serious safety and health hazards.
3. Missouri has a substantial number of grain handling facilities which have not been inspected in the last 10 years or never had an OSHA inspection.
4. There is a need to change the culture at non-compliant grain handling facilities.

VII. Procedures. The following procedures will be utilized to notify affected employers about the program.

A. Outreach. Prior to the initiation of inspection activity under this LEP the St. Louis Area Office mailed information to the targeted establishments. The information included a letter explaining the purpose of the program and materials related to the industry. Information packages will continue to be made available, upon request, to employers, professional organizations and labor organizations. The St. Louis Area Office will continue to make available outreach programs that support the purpose of this LEP to identify and reduce workplace hazards associated with grain handling and their associated work operations. Outreach programs with employers, professional associations, and local unions may include meetings, training, education, mailings, speeches or other activities designed to involve employee and management stakeholders in the identification and elimination of hazards at grain handling establishments.

B. Selection and Scheduling. Inspections under this program shall be scheduled and conducted pursuant to the following:

(1) Establishment targeting/selection.

(i) Any grain handling or storage related activities performed at the establishments in the identified SICs/NAICS [i.e., 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls), and 5153/424510 (grain and field beans)], will be subject to inspection.

(ii) Listings of Missouri establishments with SIC/NAICS 2041/311211 (flour mill products), 2044/311212 (rice milling), 2048/311119 (prepared feed for animals and fowls), and 5153/424510 (grain and field beans) within the jurisdiction of the St. Louis Area Office was provided by OSHA's Directorate of Evaluation and Analysis, Office of Statistics. The St. Louis Area Office will sort its master list by county and secondly by establishment within the counties.

(iii) Inspection cycles, by county, will continue to be created using Microsoft Excel's Random Sample function to develop inspection cycles from the master list. A random number will be assigned using the most current version of Microsoft Excel's Random Sample Function, i.e., RANDBETWEEN function in Microsoft Excel. To prevent duplicate random numbers from being generated for multiple records each time the file is opened, the entire worksheet is highlighted, copied, and pasted into a blank worksheet as "Values (V)". The new worksheet will have each random number saved as a value not a formula, which will allow the worksheet to be opened without the possibility of changing the already assigned random numbers. All establishments located in this randomly selected county will constitute the first inspection cycle. Subsequent cycles will be developed in the same manner until all counties on the master list are placed in a cycle. Establishments within a cycle may be inspected in any order that makes efficient use of resources; however, all establishments within a cycle must be inspected prior to initiating a new cycle. Carry-overs will be allowed, as provided in OSHA Instruction CPL 02-00-025, paragraph B.1.b.(1)(e).

(iv) While in the process of conducting inspections under this LEP, if a CSHO observes a grain handling facility, or becomes aware of one via referral or other means, that is not on their current county inspection cycle, but it is in the county covered by their current county inspection cycle, the site will be added and an inspection will be conducted if that establishment falls in one of the SIC codes covered by this LEP.

While in the process of conducting inspections under this LEP, if a CSHO observes a grain handling establishment that is not on their current county inspection cycle, and it is not in the county covered by their current county inspection cycle, the establishment will be added to the appropriate county inspection cycle upon their return to the office. If the county inspection cycle involved has already been completed, the establishment will not be added.

(2) Deletion Criteria.

Establishments that have had a comprehensive safety and health inspection within the past three (3) years will be deleted from each cycle.

(3) Inspection Procedures.

(i) Inspections will be joint comprehensive safety and health inspections. If Area Office resources are not available, an inspection will begin as safety only or health only and appropriate referrals will be initiated. All potential hazards covered under 29 CFR 1910.272 will be addressed.

(ii) Inspections will be conducted in accordance with CPL 02-00-051, Enforcement Exemption and Limitations under the Appropriation Act.

(iii) Inspections conducted at grain handling establishments under this program will include an evaluation of the employer's efforts at adopting protective measures and its efforts toward the abatement of hazards relating to grain handling hazards. Attention will be paid to engulfment hazards and fire/explosion hazards created by combustible dust. Other hazards addressed will include, but are not limited to, noise, confined spaces, machine guarding, and falls.

(iv) Unprogrammed events such as fatalities, catastrophes, complaints, follow-up inspections and referrals shall be scheduled for inspection in accordance with existing procedures outlined in the FOM. A single inspection will be conducted to address the unprogrammed event as well as to conduct an inspection described in this program for establishments selected in accordance with paragraph VII.B.1.

(v) When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with procedures in the FOM.

(vi) If the establishment is no longer in business, the appropriate OSHA Information System (OIS) form(s) will be completed with the Scope of the Inspection tab marked as "No Inspection". In addition, the Reason No Inspection tab shall be marked appropriately.

VIII. Recording in OIS.

A. For all inspections resulting from programmed activity, the OIS Inspection Type tab shall be marked "Programmed Planned". In addition, the Local Emphasis Program tab shall be marked "GRAIN". The National Emphasis Program tab shall be marked "AMPUTATE" or "DUSTEXPL", if appropriate, and the Strategic Plan Activity tab shall be marked appropriately.

B. Inspections that are conducted as a CSHO referral and inspected during the current inspection cycle will be coded as "GRAIN" in the Local Emphasis Program tab and Programmed Related in the Inspection Type tab. The National Emphasis Program tab shall be marked "AMPUTATE" OR "DUSTEXPL", if appropriate, and the Strategic Plan Activity tab shall be marked appropriately.

C. Inspections that are conducted as a result of a complaint, referral by another agency, or fatality/catastrophe will be coded as "GRAIN" in the Local Emphasis Program tab and Programmed Related in the Inspection Type tab. The National Emphasis Program tab shall be marked "AMPUTATE" OR "DUSTEXPL", if appropriate, and the Strategic Plan Activity tab shall be marked appropriately.

D. Compliance Assistance Reports shall be initiated as necessary.

(1) All outreach generated as a result of technical assistance provided to employers, organized labor, professional associations, or other interested parties during this program shall be marked in the Compliance Assistance Section of OIS.

(2) Any other technical assistance provided to employers during this program shall be marked in the appropriate section of the Time Tracking tab of the OIS.

E. All Consultation activities (requests, visits and compliance assistance) conducted at establishments in the SIC/NAICS codes included in this LEP will be coded with "GRAIN" in the Local Emphasis Program field on the appropriate forms.

IX. Evaluation. An annual evaluation of the program will be prepared in accordance with CPL 04-00-001 (CPL 2.102A) no later than October 30.

for Kimberly A. Stille
Regional Administrator

9/9/2016
Date

Office of the Solicitor Concurrence

9/2/2016
Date

Distribution: Regional Solicitor
Directorate of Enforcement Programs
Regional Administrator
Deputy Regional Administrator
Assistant Regional Administrators
Area Directors
Supervisory Investigator
Labor Liaison
Field Review Program Coordinator